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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BRIESE LICHTTECHNIK VERTRIEBS
GmbH, et al.

Plaintiffs,

v.

B2PRO, et al.,

Defendants,

AND RELATED COUNTERCLAIMS

No. 09 Civ 9790 (LTS) (MHD)

**DEFENDANT'S RESPONSIVE STATEMENT
UNDER L.R. 56.1 IN OPPOSITION TO
PLAINTIFFS' CROSS MOTION FOR
SUMMARY JUDGMENT**

Defendant, by and through their attorneys, submits this Response Statement pursuant to LR 56.1(b) to Plaintiffs' L.R. 56.1 Statement of Facts Nos. 1-37 filed by Plaintiffs on February 7, 2012 [doc #219]:

1. Disputed. U.S. Patent 5,841,146, Schewe Decl. Ex. 1 [doc #207] and Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4 [doc #207].
2. Disputed. George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20 [doc #206].
3. Disputed. The statement is unsupported by any citation by Plaintiffs. George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20 and Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4.
4. Disputed. George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20 and Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4.
5. Not disputed.
6. Disputed. George Brown Decl. ¶¶ 3-5.
7. Disputed. George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20 and Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4.
8. Disputed. George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20 and Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4.
9. Disputed. George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20 and Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4.
10. Disputed. George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20 and Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4.

11. Disputed. George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20 and Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4.

12. Disputed. George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20 and Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4.

13. Disputed. Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4 and George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4.

14. Disputed. Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4.

15. Disputed. Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4, and George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4.

16. Disputed. To the extent it contradicts U.S. Patent 5,841,146, Schewe Decl. Ex. 1 [doc#207] and the file history of the U.S. Patent 5,841,146, Schewe Decl. Ex. 3.

17. Disputed. Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4, and George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4.

18. Disputed. George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20 and Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4.

19. Disputed. George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20 and Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4.

20. Undisputed.

21. Undisputed.

22. Undisputed.

23. Undisputed.

24. Undisputed as to the 1997 invoice. Disputed otherwise, see George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20 and Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4.

25. Disputed. The cited evidence does not support the statement

26. Disputed. To the extent understood, George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20 and Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4.

27. Undisputed to the extent the statement is supported in Briese Decl. Ex. 16 and Serbin Ex. 7, and disputed as not supported by the cited 9/30/2010 G. Brown Depo at 73-75 and Briese Decl. ¶ 20.

28. Disputed as Plaintiffs did not cite to supporting evidence. See George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20 and Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4.

29. Disputed. George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20 and Plaintiffs' NDCal Rule 3-2(b) disclosures BH144-153, Schewe Decl. Ex. 3 and 4.

30. Disputed. George Brown Decl. ¶¶ 5-9, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and ¶¶ 10-20.

31. Undisputed.

32. Undisputed.

33. Undisputed.

34. Undisputed. Undisputed as to the content of the facsimile.

35. Undisputed. Undisputed as to what Mr. Briese believed.

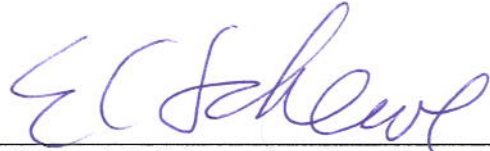
36. Disputed. George Brown Decl. ¶¶ 15-17, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and Ex. 6.

37. Disputed. George Brown Decl. ¶¶ 15-17, Brown Exs. 1.1-1.5 and Exs. 2.1-2.4 and Ex. 6.

Respectfully submitted,

Dated: February 24, 2012

By: _____



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